

§ 7.55

manner as prominent as the health-related directional statement, the following disclaimer: "This statement should not encourage you to drink or increase your alcohol consumption for health reasons;" or

(2) Includes as part of the health-related directional statement, and in a manner as prominent as the health-related directional statement, some other qualifying statement that the appropriate TTB officer finds is sufficient to dispel any misleading impression conveyed by the health-related directional statement.

(f) *Confusion of brands.* Two or more different brands or lots of malt beverages shall not be advertised in one advertisement (or in two or more advertisements in one issue of a periodical or a newspaper or in one piece of other written, printed, or graphic matter) if the advertisement tends to create the impression that representations made as to one brand or lot apply to the other or others, and if as to such latter the representations contravene any provision of §§ 7.50 through 7.54 or are in any respect untrue.

(g) *Flags, seals, coats of arms, crests, and other insignia.* No advertisement shall contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States, or of the American flag, or of any emblem, seal, insignia, or decoration associated with such flag or armed forces; nor shall any advertisement contain any statement, device, design, or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to mislead the consumer to believe that the product has been endorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of the government, organization, family, or individual with whom such flag, seal, coat of arms, crest, or insignia is associated.

(h) *Deceptive advertising techniques.* Subliminal or similar techniques are prohibited. "Subliminal or similar techniques," as used in this part, refers to any device or technique that is used to convey, or attempts to convey, a message to a person by means of images or sounds of a very brief nature

27 CFR Ch. I (4–1–11 Edition)

that cannot be perceived at a normal level of awareness.

[T.D. 6521, 25 FR 13859, Dec. 29, 1960, as amended by T.D. ATF-180, 49 FR 31675, Aug. 8, 1984; T.D. ATF 280, 54 FR 3594, Jan. 25, 1989; T.D. ATF-339, 58 FR 21232, Apr. 19, 1993; TTB T.D.-1, 68 FR 10106, Mar. 3, 2003; TTB T.D.-21, 70 FR 235, Jan. 3, 2005]

§ 7.55 Comparative advertising.

(a) *General.* Comparative advertising shall not be disparaging of a competitor's product.

(b) *Taste tests.* (1) Taste test results may be used in advertisements comparing competitors' products unless they are disparaging, deceptive, or likely to mislead the consumer.

(2) The taste test procedure used shall meet scientifically accepted procedures. An example of a scientifically accepted procedure is outlined in the *Manual on Sensory Testing Methods*, ASTM Special Technical Publication 434, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103, ASTM, 1968, Library of Congress Catalog Card Number 68-15545.

(3) A statement shall appear in the advertisement providing the name and address of the testing administrator.

[T.D. ATF-180, 49 FR 31676, Aug. 8, 1984]

Subpart G—General Provisions

§ 7.60 Exports.

This part shall not apply to malt beverages exported in bond.

Subpart H—Interim Regulations for Alcoholic Content Statements

§ 7.71 Alcoholic content.

(a) *General.* Alcoholic content and the percentage and quantity of the original gravity or extract may be stated on a label unless prohibited by State law. When alcoholic content is stated, and the manner of statement is not required under State law, it shall be stated as prescribed in paragraph (b) of this section.

(b) *Form of statement.* (1) Statement of alcoholic content shall be expressed in percent alcohol by volume, and not by percent by weight, proof, or by maximums or minimums.

(2) For malt beverages containing 0.5 percent or more alcohol by volume, statements of alcoholic content shall be expressed to the nearest one-tenth of a percent, subject to the tolerance permitted by paragraph (c) (1) and (2) of this section. For malt beverages containing less than 0.5 percent alcohol by volume, alcoholic content may be expressed in one-hundredths of a percent, subject to the tolerance permitted in paragraph (c)(3) of this section.

(3) Alcoholic content shall be expressed in the following fashion: “alcohol—percent by volume,” “alcohol by volume—percent,” “—percent alcohol by volume,” or “—percent alcohol/volume.” The abbreviations “alc” and “vol” may be used in lieu of the words “alcohol” and “volume,” and the symbol “%” may be used in lieu of the word “percent.”

(c) *Tolerances.* (1) For malt beverages containing 0.5 percent or more alcohol by volume, a tolerance of 0.3 percent will be permitted, either above or below the stated percentage of alcohol. Any malt beverage which is labeled as containing 0.5 percent or more alcohol by volume may not contain less than 0.5 percent alcohol by volume, regardless of any tolerance.

(2) For malt beverages which are labeled as “low alcohol” or “reduced alcohol” under paragraph (d) of this section, the actual alcoholic content may not equal or exceed 2.5 percent alcohol by volume, regardless of any tolerance permitted by paragraph (c)(1) of this section.

(3) For malt beverages containing less than 0.5 percent alcohol by volume, the actual alcoholic content may not exceed the labeled alcoholic content. A malt beverage may not be labeled with an alcoholic content of 0.0 percent alcohol by volume unless it is also labeled as “alcohol free” and contains no alcohol.

(d) *Low alcohol and reduced alcohol.* The terms “low alcohol” or “reduced alcohol” may be used only on malt beverages containing less than 2.5 percent alcohol by volume.

(e) *Non-alcoholic.* The term “non-alcoholic” may be used on malt beverages, provided the statement “contains less than 0.5 percent (or .5%) alcohol by volume” appears in direct conjunction

with it, in readily legible printing and on a completely contrasting background.

(f) *Alcohol free.* The term “alcohol free” may be used only on malt beverages containing no alcohol.

[T.D. ATF-339, 58 FR 21232, Apr. 19, 1993]

Subpart I—Use of the Term “Organic”

§ 7.81 Use of the term “organic.”

(a) Use of the term “organic” is optional and is treated as “additional information on labels” under § 7.28(e).

(b) Any use of the term “organic” on a malt beverage label or in advertising of malt beverages must comply with the United States Department of Agriculture’s (USDA) National Organic Program rules (7 CFR part 205) as interpreted by the USDA.

(c) This section applies to labels and advertising that use the term “organic” on and after October 21, 2002.

[T.D. ATF-483, 67 FR 62858, Oct. 8, 2002]

PART 8—EXCLUSIVE OUTLETS

Subpart A—Scope of Regulations

Sec.

- 8.1 General.
- 8.2 Territorial extent.
- 8.3 Application.
- 8.4 Jurisdictional limits.
- 8.5 Delegations of the Administrator.
- 8.6 Administrative provisions.

Subpart B—Definitions

- 8.11 Meaning of terms.

Subpart C—Prohibited Practices

- 8.21 General.
- 8.22 Contracts to purchase distilled spirits, wine, or malt beverages.
- 8.23 Third party arrangements.

Subpart D—Exclusion

- 8.51 Exclusion, in general.
- 8.52 Practices which result in exclusion.
- 8.53 Practice not resulting in exclusion.
- 8.54 Criteria for determining retailer independence.

AUTHORITY: 15 U.S.C. 49-50; 27 U.S.C. 202 and 205; 44 U.S.C. 3504(h).

SOURCE: T.D. ATF-74, 45 FR 63256, Sept. 23, 1980, unless otherwise noted.